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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/410,818	10/01/1999	JAY S. WALKER	99-034	7518

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EXAMINER

DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/410,818

Applicant(s)

WALKER ET AL.

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-49, 51-57, 63-66 and 68-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-49, 51-57, 63-66 and 68-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-4, 6-49, 51-57, 63-66, and 68-71 have been examined.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/30/04 has been entered.

Response to Amendment

3. The Amendment filed on 6/30/04 has been considered and is sufficient to overcome the Keithley, Ferguson, and Odom reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-4, 6-49, 51-57, 63-66, and 68-71 are rejected under 35 USC § 103(a) as being unpatentable over Keithley (5,584,025) in view of Ferguson (5,819,092) and in view of Odom (6,058,379) in view of Verba (6,236,977).

Claim 1: Keithley discloses an apparatus and method for interactive communication for tracking and viewing data. Keithley further discloses that home information can be transmitted to a viewer (col 4, lines 10-13).

Keithley does not explicitly disclose that the information provider (homeowner) is compensated for providing their information.

However, Ferguson discloses an online service development tool with fee setting capabilities. Ferguson further discloses that a content provider can be paid for providing information (col 3, lines 50-55) based on a modifiable system (col 4, lines 60-62).

Ferguson further discloses that the invention can be utilized for the selling of goods or services (col 3, lines 30-40), that the content provider can be paid for providing useful information of a wide variety (col 3, lines 50-55), that the content provider or the purchaser can each be paid or charged for information providing or information access depending on the embodiment of the invention (col 9, lines 3-7), that the content can be informational or that the content can be purchased or the content can lead to a purchase (col 8, line 60-col 9, line 10), that the content can be provided for informational purposes or for purposes of leading to a purchase (col 13, lines 47-55; col 15, lines 44-48).

Therefore, it would have been obvious to one of ordinary skill in the art to add Ferguson's compensating the information provider method to Keithley's method for tracking and viewing home data. One would have been motivated to do this so that Keithley has a way to

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motivate content providers, that may or may not be interested in selling, to provide their information.

While Keithley and Ferguson do disclose all the above, Keithley does not explicitly disclose that the homeowner can display properties that are currently not marketed for sale. Additionally, Keithley nor Ferguson discloses determining a rating of the homeowner's willingness to sell the home and allowing the viewer to communicate with the homeowner if the rating is at least equal to the predetermined rating.

However, Odom discloses real-time network exchange with seller specified exchange parameters and interactive seller participation. Odom further discloses that any commodity, good, service, or item can be displayed (col 5, lines 25-30), that seller anonymity can be maintained (col 12, lines 38-45), that a threshold can be set up by the seller such that offers that do not meet the seller established criteria are never sent to the seller (col 6, lines 45-55; col 6, lines 37-45), that the seller does not need to sell the item (col 8, lines 25-27), that the seller can determine multiple aspects and criteria of item display, information exchange, or selling conditions (col 2, lines 34-39; col 2, lines 43-49; col 3, lines 15-21; col 3, lines 34-37; col 3, lines 55-61), that purchasers can 'chat' with sellers at the sellers discretion and if they meet seller established criteria (col 6, lines 12-20; col 4, lines 50-55; col 5, lines 34-38).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Odom's seller specified exchange criteria to Keithley's method for tracking and viewing home data. One would have been motivated to do this because giving the seller further control of the conditions under which homes are displayed will further entice homeowners to display their homes.

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Furthermore, Odom analyzes the seller provided information to determine ratings of thresholds for criteria in different categories or goal that represents when the seller will sell or not. Odom is attempting to identify the threshold where the seller will sell or not. Hence, Odom is determining a rating of the seller's willingness to sell. Because Odom is presenting best bids considered of interest to the seller's goals, Odom is presenting information based upon a rating of the seller's willingness to sell. Odom must determine what the seller's willingness to sell is for the different goals or categories in order to present the seller with the best bid in interest of the seller's goals (col 6, lines 45-55; col 14, lines 26-32).

Verba further discloses tracking members and non-members, customers and non-customers, and properties that are for sale and not yet up for sale (col 2, line 55-col 3, line 20) and including information on members who are potential buyers and potential sellers (col 5, lines 60-67).

Verba further discloses that the system can be utilized by various parties and that users can functions in various capacities (col 2, lines 27-32; col 14, lines 55-60).

Verba further discloses developing campaigns to the various members of the public to persuade them to utilize the system (col 6, lines 8-24).

Verba further discloses determining a homeowner's willingness to sell the home and predicting how likely a property is to be listed (col 7, lines 5-20). Note that because the system predicts properties that are likely to be listed, the system is tracking properties that are not yet for sale and owners who have not yet placed their properties on the market.

Verba further discloses informing the viewer, before the viewer indicates any interest in the home, that the home is not currently being marketed as being for sale (col 3, lines 10-22).

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Verba does not explicitly disclose that the homeowner is provided an offer for compensation for providing information about the home.

However, Verba discloses marketing to and tracking members and non-members, customers and non-customers.

Additionally, as stated above, Ferguson discloses providing compensation in various forms and based on various criteria to entice a user to provide content.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Ferguson's compensating an information provider and Verba's tracking non-customers and properties not yet up for sale to Keithley's providing information on properties for sale. One would have been motivated to do this in order to provide better leads ins to property sales and lead ins to non-customers becoming customers.

Claim 2: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley further discloses how an Agent may obtain property listing information from a property owner (col 10, lines 52-58).

Claim 3: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley does not explicitly disclose periodic compensation.

However, Ferguson discloses that content providers can be paid based on a customizable payment system (col 4, lines 60-63).

Ferguson further discloses an online service development tool with fee setting capabilities. Ferguson further discloses that a content provider can be paid for providing information (col 3, lines 50-55) based on a modifiable system (col 4, lines 60-62).

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Ferguson further discloses that Applicant's intention can be utilized for the selling of goods or services (col 3, lines 30-40), that the content provider can be paid for providing useful information of a wide variety (col 3, lines 50-55), that the content provider or the purchaser can each be paid or charge for information providing or information access depending on the embodiment of the invention (col 9, lines 3-7), that the content can be informational or that the content can be purchased or the content can lead to a purchase (col 8, line 60-col 9, line 10), that the content can be provided for informational purposes or for purposes of leading to a purchase (col 13, lines 47-55; col 15, lines 44-48).

Therefore, it would have been obvious to one of ordinary skill in the art to add Ferguson's flexibly compensating the information provider method to Keithley's method for tracking and viewing home data. One would have been motivated to do this so that Keithley has a way to motivate content providers, that may or may not be interested in selling, to provide their information.

Claims 4, 20, 21, 22, and 23: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley further discloses that a digitized picture (col 13, lines 12-15), video, and graphics (col 9, lines 5-9) of the property are provided.

Claim 5: Keithley and Ferguson disclose a method as in claim 1 above. Keithley further discloses that a user may view real estate that need not be for sale but for fostering related ideas of all kinds (col 10, lines 4-12 and col 7 lines 20-23). Keithley does not explicitly state that the real estate is not for sale. However, Ferguson discloses that the content provider can provide valuable informational content (col 4, lines 60-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Ferguson's

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information alone content to Keithley's data tracking and viewing method. One would have been motivated to do this so that Keithley's content providers are not obligated to sell as Ferguson discloses.

Claims 6, 7, 17, 18, and 19: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley further discloses that the owner information and home address need not be provided to the user (col 8, lines 20-25).

Claims 8, 10, and 13-16: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley further discloses that the method tracks the number of viewers (col 7, lines 17-23), the popularity of a locale (col 10, lines 30-35), the level of interest in a home (col 7, lines 20-23 and col 11, lines 16-18), and quality of features (profile) of a property (col 9, line 61-col 10, line 1), and the price information (Fig. 9, Price).

Claims 9 and 12: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley further discloses that a line of credit or special loan can be awarded based on information tracked by the system (col 11, lines 47-53).

Claim 11: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley does not explicitly disclose a fixed, predetermined compensation.

However, Ferguson discloses that content providers can be paid on a for-fee basis (predetermined amount) (col 3, lines 52-53).

Ferguson further discloses an online service development tool with fee setting capabilities. Ferguson further discloses that a content provider can be paid for providing information (col 3, lines 50-55) based on a modifiable system (col 4, lines 60-62).

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Ferguson further discloses that Applicant's invention can be utilized for the selling of goods or services (col 3, lines 30-40), that the content provider can be paid for providing useful information of a wide variety (col 3, lines 50-55), that the content provider or the purchaser can each be paid or charge for information providing or information access depending on the embodiment of the invention (col 9, lines 3-7), that the content can be informational or that the content can be purchased or the content can lead to a purchase (col 8, line 60-col 9, line 10), that the content can be provided for informational purposes or for purposes of leading to a purchase (col 13, lines 47-55; col 15, lines 44-48).

Therefore, it would have been obvious to one of ordinary skill in the art to add Ferguson's flexibly compensating the information provider method to Keithley's method for tracking and viewing home data. One would have been motivated to do this so that Keithley has a way to motivate content providers, that may or may not be interested in selling, to provide their information.

Claims 24 and 25: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley further discloses that the viewer may be charged a fee for viewing home information (col 12, line 66- col 13, line 3).

Claim 26: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 24 above. Keithley further discloses that the viewer can be charged a fee for viewing home information (col 12, line 66- col 13, line 3).

Claims 27, 29-32, 34-39: Keithley, Ferguson, Odom, and Verba disclose a method as in claims 24, 23, and 60 above. Keithley further discloses that the invention provides detailed data on all aspects of viewership and response, keeping track of this information via access codes (col

1, lines 34-45), and that a viewer can be charge a fee based on usage of the service and the access codes (col 12, line 64-col 13, line 3).

Claim 28: Keithley, Ferguson, Odom, and Verba disclose a method as in claims 24 above. Keithley further discloses that the invention provides detailed data on all aspects of viewership and response, keeping track of this information via access codes (col 1, lines 34-45), and that a viewer can be charge a fee based on usage of the service and the access codes (col 12, line 64-col 13, line 3).

Keithley does not explicitly state that the fee can be based on at least one of the appraised value of the home, the potential selling price of the home, and the difference between the appraised value and the potential selling price.

However, Ferguson discloses a complex fee setting tool based on multiple attributes (col 4, lines 30-32), that the fee setting tool can set the compensation level for content providers for valuable information (col 4, lines 60-67), and that the viewer can be charge for the information based on the complex fee setting tool scripting (col 4, lines 30-32, col 4, lines 60-67).

Therefore, it would have been obvious to one of ordinary skill in the art to add Ferguson's complex fee setting to Keithley's charging the viewer for viewing data. One would have been motivated to do this so that Keithley has a way to charge for the level of content provided as Ferguson discloses.

Claim 33: Keithley, Ferguson, Odom, and Verba disclose a method as in claims 24 above. Keithley further discloses that the invention provides detailed data on all aspects of viewership and response, keeping track of this information via access codes (col 1, lines 34-45), and that a viewer can be charge a fee based on usage of the service and the access codes (col 12,

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line 64-col 13, line 3). Keithley further discloses that demographic information on the viewer be collected (col 14, lines 58-65).

Claims 40-44: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley further discloses that viewer information, viewer home preferences (col 13, lines 31-40), and viewer interest in a home can be received (col 7, lines 20-23). Keithley further discloses that based on this information a set of home information can be sent to the user (col 13, lines 37-40) and the homes can be for sale (col 13, lines 44-45).

Claims 45-46, and 54: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above, claim 53 below, and claim 58 below. Keithley further discloses that the user can shop for homes on the service and that there are databases for receiving the purchase information (col 10, lines 4-5 and col 10, lines 58-62). Keithley further discloses that the owner is notified of the offer (col 10, lines 64-67).

Claims 47 and 55: Keithley, Ferguson, Odom, and Verba disclose a method as in claims 45 and 54 above. Keithley further discloses that the end user need not provide their information (col 7, lines 20-23).

Claim 48: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 45 above. Keithley further discloses that the end user enters their purchase price (col 13, lines 31-33).

Claim 49: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 45 above. Keithley further discloses that owner information is stored in the property profiles database (col 6, lines 30-32) and that transactions information is stored in a transactions database (col 10, lines 58-63). While Keithley does not explicitly state that the owner can be penalized for not selling,

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Keithley infers that the Agent could take such actions utilizing the information in these databases.

Claim 51: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above. Keithley further discloses that a home picture can be displayed (col 13, lines 12-15) and that the homeowner can remain anonymous (col 8, lines 20-25). Keithley, therefore, infers that owner identifying information can be taken out of the picture.

Claims 52-53, 56-57, 63-64, 66, and 69-71: Keithley discloses an apparatus and method for interactive communication for tracking and viewing data. Keithley further discloses that home information can be transmitted to a viewer using a remote viewing device (col 4, lines 10-13). Keithley further discloses that a picture of the home can be made available (col 13, lines 12-15). Keithley further discloses that the homeowner can remain anonymous (col 8, lines 20-25) and that the viewer can be charged (col 12, line 66-col 13, line 3). Keithley further discloses that an Agent obtains property listing information from an owner for sale (col 10, lines 52-58). Keithley further discloses that the user can indicate their interest in a home (col 7, lines 20-23). Keithley further discloses the user providing an offer to purchase the home (col 13, lines 30-53).

Keithley does not explicitly disclose that the information provider (homeowner) is compensated for providing their information.

However, Ferguson discloses an online service development tool with fee setting capabilities. Ferguson further discloses that a content provider can be paid for providing information (col 3, lines 50-55) based on a modifiable system (col 4, lines 60-62).

Ferguson further discloses that Applicant's intention can be utilized for the selling of goods or services (col 3, lines 30-40), that the content provider can be paid for providing useful

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information of a wide variety (col 3, lines 50-55), that the content provider or the purchaser can each be paid or charge for information providing or information access depending on the embodiment of the invention (col 9, lines 3-7), that the content can be informational or that the content can be purchased or the content can lead to a purchase (col 8, line 60-col 9, line 10), that the content can be provided for informational purposes or for purposes of leading to a purchase (col 13, lines 47-55; col 15, lines 44-48).

Therefore, it would have been obvious to one of ordinary skill in the art to add Ferguson's compensating the information provider method to Keithley's method for tracking and viewing home data. One would have been motivated to do this so that Keithley has a way to motivate content providers, that may or may not be interested in selling, to provide their information.

While Keithley and Ferguson do disclose all the above, Keithley does not explicitly disclose that the homeowner can display properties that are currently not marketed for sale. Additionally, Keithley nor Ferguson discloses determining a rating of the homeowner's willingness to sell the home and allowing the viewer to communicate with the homeowner if the rating is at least equal to the predetermined rating.

However, Odom discloses real-time network exchange with seller specified exchange parameters and interactive seller participation. Odom further discloses that any commodity, good, service, or item can be displayed (col 5, lines 25-30), that seller anonymity can be maintained (col 12, lines 38-45), that a threshold can be set up by the seller such that offers that do not meet the seller established criteria are never sent to the seller (col 6, lines 45-55; col 6, lines 37-45), that the seller does not need to sell the item (col 8, lines 25-27), that the seller can

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determine many aspects and criteria of item display, information exchange, and selling conditions (col 2, lines 34-39; col 2, lines 43-49; col 3, lines 15-21; col 3, lines 34-37; col 3, lines 55-61), that purchasers can 'chat' with sellers at the sellers discretion and if they meet seller established criteria (col 6, lines 12-20; col 4, lines 50-55; col 5, lines 34-38).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Odom's seller specified exchange criteria to Keithley's method for tracking and viewing home data. One would have been motivated to do this because giving the seller further control of the conditions under which homes are displayed will further entice homeowners to display their homes.

Furthermore, Odom analyzes the seller provided information to determine ratings of thresholds for criteria in different categories or goal that represents when the seller will sell or not. Odom is attempting to identify the threshold where the seller will sell or not. Hence, Odom is determining a rating of the seller's willingness to sell. Because Odom is presenting best bids considered of interest to the seller's goals, Odom is presenting information based upon a rating of the seller's willingness to sell. Odom must determine what the seller's willingness to sell is for the different goals or categories in order to present the seller with the best bid in interest of the seller's goals (col 6, lines 45-55; col 14, lines 26-32).

Verba further discloses tracking members and non-members, customers and non-customers, and properties that are for sale and not yet up for sale (col 2, line 55-col 3, line 20) and including information on members who are potential buyers and potential sellers (col 5, lines 60-67).

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Verba further discloses that the system can be utilized by various parties (col 2, lines 27-32).

Verba further discloses developing campaigns to the various members of the public to persuade them to utilize the system (col 6, lines 8-24).

Verba further discloses determining a homeowner's willingness to sell the home and predicting how likely a property is to be listed (col 7, lines 5-20). Note that because the system predicts properties that are likely to be listed, the system is tracking properties that are not yet for sale and owners who have not yet placed their properties on the market.

Verba further discloses informing the viewer, before the viewer indicates any interest in the home, that the home is not currently being marketed as being for sale (col 3, lines 10-22).

Verba does not explicitly disclose that the homeowner is provided an offer for compensation for providing information about the home.

However, Verba discloses marketing to and tracking members and non-members, customers and non-customers.

Additionally, as stated above, Ferguson discloses providing compensation in various forms and based on various criteria to entice a user to provide content.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Ferguson's compensating an information provider and Verba's tracking non-customers and properties not yet up for sale to Keithley's providing information on properties for sale. One would have been motivated to do this in order to provide better leads ins to property sales and lead ins to non-customers becoming customers.

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Claim 65: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 64 above.

Keithley further discloses that the user can shop for homes on the service and that there are databases for receiving the purchase information (col 10, lines 4-5 and col 10, lines 58-62) including the offer price made by the viewer (col 13, lines 31-33). Keithley further discloses that the owner is notified of the offer (col 10, lines 64-67) and that marketing data information can be used by the Agent to make notification decisions (col 10, lines 58-67).

Claim 68: Keithley, Ferguson, Odom, and Verba disclose a method as in claim 1 above.

Keithley further discloses that the compensation information includes one or more of an appraised value of home, a location of home, an expected interest of viewers in the home, a level of anonymity maintained with respect to the homeowner of the home, and a current market price of the home (col 7, lines 17-23; col 10, lines 30-35; col 7, lines 20-23; col 11, lines 16-18; col 9, line 61-col 10, line 1; Fig. 9, Price; and col 8, lines 20-25).

Response to Arguments

5. Applicant's arguments with respect to claims 1-4, 6-49, 51-57, 63-66, and 68-71 have been considered but are moot in grounds of the new rejection.

Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art that is being referred to.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the

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teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Keithley concerns an information processing system for acquiring and displaying real estate industry related information (col 3, lines 30-33). Ferguson discloses an online marketing system with compensation for certain actions (Abstract). Odom discloses further features in terms of online marketing systems that involve seller and buyer relations (Abstract). Hence, Keithley would be motivated to utilize the features of Ferguson and Odom in order to allow for compensating parties involved in information exchange, thereby increasing utilization of the Keithley's real estate information system, and for allowing the system to be utilized for informational as well as directly sales related purposes, thereby expanding the range of utilization for Keithley's system.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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Conclusion

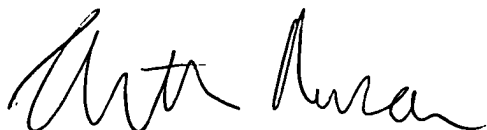
The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Witek (6,253,188); Good (6,314,404); Wittgreffe (6,253,208); Forward (6,578,011); Mini (6,684,196) disclose online marketing and providing of information for real estate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (703)305-4687. The examiner can normally be reached on Mon- Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703)305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur Duran
Patent Examiner
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